

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SYDNEY BROOKE ROBERTS,

No. 2:22-cv-01699 TLN AC PS

Plaintiff,

## ORDER

## SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY, et al.,

## Defendants.

Plaintiff is proceeding in this action pro se. This matter was accordingly referred to the undersigned by E.D. Cal. 302(c)(21). Plaintiff has filed a request for leave to proceed in forma pauperis (“IFP”) and has submitted the affidavit required by that statute. See 28 U.S.C. § 1915(a)(1). The motion to proceed IFP will therefore be granted.

## I. SCREENING

The federal IFP statute requires federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Plaintiff must assist the court in determining whether the complaint is frivolous, by drafting the complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”). The Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure).

1           Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and  
2 plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this  
3 court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled  
4 to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief  
5 sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly.  
6 Fed. R. Civ. P. 8(d)(1). Forms are available to help pro se plaintiffs organize their complaint in  
7 the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200),  
8 Sacramento, CA 95814, or online at [www.uscourts.gov/forms/pro-se-forms](http://www.uscourts.gov/forms/pro-se-forms).

9           A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
10           Neitzke v. Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the  
11 court will (1) accept as true all of the factual allegations contained in the complaint, unless they  
12 are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the  
13 plaintiff, and (3) resolve all doubts in the plaintiff’s favor. See Neitzke, 490 U.S. at 327; Von  
14 Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert.  
15 denied, 564 U.S. 1037 (2011).

16           The court applies the same rules of construction in determining whether the complaint  
17 states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court  
18 must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must  
19 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a  
20 less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520  
21 (1972). However, the court need not accept as true conclusory allegations, unreasonable  
22 inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618,  
23 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice  
24 to state a claim. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal,  
25 556 U.S. 662, 678 (2009).

26           To state a claim on which relief may be granted, the plaintiff must allege enough facts “to  
27 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has  
28 facial plausibility when the plaintiff pleads factual content that allows the court to draw the

1 reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at  
2 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity  
3 to amend, unless the complaint’s deficiencies could not be cured by amendment. See Noll v.  
4 Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in  
5 Lopez v. Smith, 203 F.3d 1122 (9th Cir.2000)) (en banc).

## II. THE COMPLAINT

7 Plaintiff sues on behalf of herself and two others, David Tyrone Samuel and A.I.M.S., a  
8 minor. ECF No. 1 at 4. Plaintiff asserts jurisdiction based on the presence of a federal question  
9 and cites four federal laws: the Fair Housing Act (42 U.S.C. §§ 1301-19) (“FHA”), the  
10 Rehabilitation Act (29 U.S.C. §701), the Americans with Disabilities Act (42 U.S.C. §§ 12101)  
11 (“ADA”), and the Administrative Procedures Act (5 U.S.C. §§ 551-559). Id. at 6. Plaintiff  
12 alleges that defendants “denied reasonable accommodation for change in room allocation on  
13 housing choice voucher despite acknowledging request was reasonable on grounds they were  
14 legally required to apply standards and practices ‘consistently for all families of like size and  
15 composition.’” Id. at 7. Plaintiff alleges that defendants sent a denial letter that proposed  
16 “alternate sleeping arrangements,” or that family members sleep in the living room, which does  
17 not meet the family’s needs. Id. at 8.

18 Plaintiff alleges that defendants failed to make changes to their communications policies  
19 and failed to make services accessible by providing a phone number that did not allow for  
20 messages and an e-mail address that “did not respond.” Id. Plaintiff further alleges that  
21 defendants failed to provide a timely hearing regarding denial of her reasonable accommodations  
22 requests but did, after more than 60 days, offer an informal hearing attended by plaintiff and  
23 defendant SHRA. Id. Plaintiff was informed that the officer was unable to decide the case and a  
24 new hearing date would be scheduled. Id. At the second hearing, evidence was not allowed  
25 regarding reasonable accommodations, and the hearing officer required plaintiff to provide an  
26 explanation as to why sleeping in the living room would not satisfy the family’s needs. Id.  
27 Plaintiff alleges that defendants, as part of their documented policy, discriminate against

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1 individuals based on type of disability. Id. Plaintiff asks for injunctive relief, \$200,000 in  
2 compensatory damages, and \$1,000,000 in punitive damages. Id. at 9.

### III. FAILURE TO STATE A CLAIM

4 Plaintiff's complaint contains several problems that must be fixed before it can be served.  
5 First, though plaintiff may represent herself as a pro se litigant, she may not represent other  
6 people. "A pro se plaintiff can only 'prosecute his own action in propria persona,' and 'has no  
7 authority to prosecute an action in federal court on behalf of others.'" United States ex rel. Welch  
8 v. My Left Foot Children's Therapy, LLC, 871 F.3d 791, 800 (9th Cir. 2017) (quoting Stoner v.  
9 Santa Clara County Office of Educ., 502 F.3d 1116, 1126 (9th Cir. 2007)).

10 Second, plaintiff fails to state a claim under any of the statutes named in the complaint.  
11 Plaintiff names the Fair Housing Act, which makes it unlawful for a housing provider “[t]o  
12 discriminate against any person in the terms, conditions, or privileges of sale or rental of a  
13 dwelling, or in the provision of services or facilities in connection with such dwelling, because of  
14 a handicap of that person.” 42 U.S.C. § 3604(f)(2)(A). Plaintiff alleges that reasonable  
15 accommodations were not provided. To properly plead a failure to accommodate claim, a  
16 plaintiff must allege facts demonstrating that: (1) she suffers from a handicap as defined in 42  
17 U.S.C. § 3602(h); (2) the defendants knew or reasonably should have known of her handicap; (3)  
18 accommodation of the handicap “may be necessary” to afford the plaintiff an equal opportunity to  
19 use and enjoy the dwelling; and (4) the defendants refused to make such accommodation. United  
20 States v. Cal. Mobile Home Park Mgmt., 107 F.3d 1374, 1380 (9th Cir. 1997). The FHA defines  
21 a handicap as: “(1) a physical or mental impairment which substantially limits one or more of  
22 such person's major life activities, (2) a record of having such an impairment, or (3) being  
23 regarded as having such an impairment.” 42 U.S.C. § 3602(h). Here, plaintiff does not provide  
24 any facts about the alleged disability, nor does she provide information about the proposed  
25 accommodations, the necessity of the accommodations, or the defendants' refusal to make the  
26 accommodations. From the complaint, the court cannot tell whether plaintiff can state a claim  
27 under the FHA.

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1 Plaintiff's complaint also fails to state a claim under the ADA. Title II of the ADA  
 2 applies to public entities, and as the named defendants are a public entity and its employees, the  
 3 court construes the ADA claim to be brought under Title II of the ADA. "To establish a violation  
 4 of Title II of the ADA, a plaintiff must show that (1) she is a qualified individual with a disability;  
 5 (2) she was excluded from participation in or otherwise discriminated against with regard to a  
 6 public entity's services, programs, or activities; and (3) such exclusion or discrimination was by  
 7 reason of her disability." Lovell v. Chandler, 303 F.3d 1039, 1052 (9th Cir. 2002). To recover  
 8 money damages under Title II of the ADA, a plaintiff must also prove intentional discrimination  
 9 on the part of any defendants. Duvall v. County of Kitsap, 260 F.3d 1124, 1138 (9th Cir. 2001).  
 10 The standard for intentional discrimination is deliberate indifference, which requires the plaintiff  
 11 to show that the defendant knew "harm to a federally protected right [wa]s substantially likely"  
 12 and failed to act upon that likelihood. Id. at 1139. As with the FHA claim, plaintiff does not  
 13 allege the necessary facts in her complaint to state an ADA claim.

14 Likewise, plaintiff fails to state a claim under the Rehabilitation Act. Section 504 of the  
 15 Rehabilitation Act prohibits "discrimination against all handicapped individuals....in employment,  
 16 housing, transportation, education, health services, or any other Federally-aided programs." 29  
 17 U.S.C. § 794. To state a disability discrimination claim under Section 504, a plaintiff must  
 18 allege: "(1) he is an 'individual with a disability'; (2) he is 'otherwise qualified' to receive the  
 19 benefit; (3) he was denied the benefit of the program solely by reason of his disability; and (4) the  
 20 program receives federal financial assistance." Weinreich v. Los Angeles County Metropolitan  
 21 Transp. Authority, 114 F.3d 976, 978 (9th Cir. 1997). Under the Rehabilitation Act, "disability"  
 22 is defined as "(A) a physical or mental impairment that substantially limits one or more of the  
 23 major life activities of such individual, (B) a record of such an impairment, or (C) being regarded  
 24 as having such an impairment." Walton v. U.S. Marshals Serv., 492 F.3d 998, 1005 (9th Cir.  
 25 2007). Again, plaintiff's complaint does not contain the necessary information to demonstrate  
 26 that she can state a Rehabilitation Act claim.

27 Finally, plaintiff names the Administrative Procedures Act. The Administrative  
 28 Procedures Act governs the procedures of federal administrative agencies. To the extent plaintiff

1 is challenging state and/or county services and benefits, this federal law does not apply. The  
2 complaint does not contain any facts which would suggest a violation of 5 U.S.C. § 701 et seq.  
3 has occurred. Based on the contents of the compliant, plaintiff does not state a claim under this  
4 statute, and the court believes that this statute likely does not apply to plaintiff's set of  
5 circumstances. Because plaintiff fails to state any claim upon which relief could be granted, the  
6 complaint will not be served. Plaintiff will be given an opportunity to submit an amended  
7 complaint. General instructions for submitting an amended complaint are below.

8 **IV. AMENDING THE COMPLAINT**

9 If plaintiff chooses to amend the complaint, the amended complaint must allege facts  
10 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain  
11 statement of each of plaintiff's claims. The allegations of the complaint must be set forth in  
12 sequentially numbered paragraphs, with each paragraph number being one greater than the one  
13 before, each paragraph having its own number, and no paragraph number being repeated  
14 anywhere in the complaint. Each paragraph should be limited "to a single set of circumstances"  
15 where possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their  
16 complaint in the proper way. They are available at the Clerk's Office, 501 I Street, 4th Floor  
17 (Rm. 4-200), Sacramento, CA 95814, or online at [www.uscourts.gov/forms/pro-se-forms](http://www.uscourts.gov/forms/pro-se-forms).

18 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid  
19 narrative and storytelling. That is, the complaint should not include every detail of what  
20 happened, nor recount the details of conversations (unless necessary to establish the claim), nor  
21 give a running account of plaintiff's hopes and thoughts. Rather, the amended complaint should  
22 contain only those facts needed to show how the defendant legally wronged the plaintiff.

23 The amended complaint must not force the court and the defendants to guess at what is  
24 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996)  
25 (affirming dismissal of a complaint where the district court was "literally guessing as to what  
26 facts support the legal claims being asserted against certain defendants"). The amended  
27 complaint must not require the court to spend its time "preparing the 'short and plain statement'  
28 which Rule 8 obligated plaintiffs to submit." Id. at 1180. The amended complaint must not

1 require the court and defendants to prepare lengthy outlines “to determine who is being sued for  
2 what.” Id. at 1179.

3 Also, the amended complaint must not refer to a prior pleading in order to make plaintiff’s  
4 amended complaint complete. An amended complaint must be complete in itself without  
5 reference to any prior pleading. Local Rule 220. This is because, as a general rule, an amended  
6 complaint supersedes the original complaint. See Pacific Bell Tel. Co. v. Linkline  
7 Communications, Inc., 555 U.S. 438, 456 n.4 (2009) (“[n]ormally, an amended complaint  
8 supersedes the original complaint”) (citing 6 C. Wright & A. Miller, Federal Practice &  
9 Procedure § 1476, pp. 556-57 (2d ed. 1990)). Therefore, in an amended complaint, as in an  
10 original complaint, each claim and the involvement of each defendant must be sufficiently  
11 alleged.

12 **V. PRO SE PLAINTIFF’S SUMMARY**

13 It is not clear that this case can proceed in federal court. The court cannot tell from your  
14 complaint what legal harm was done to you or if you can state a claim under federal law. The  
15 complaint as written does not provide enough facts to state a claim under the Americans with  
16 Disabilities Act, the Fair Housing Act, or the Rehabilitation Act. Based on the information you  
17 have provided so far, the Administrative Procedures Act likely does not apply to your situation.  
18 You also cannot bring a lawsuit on behalf of anyone but yourself. Your lawsuit cannot proceed  
19 unless you fix the problems with your complaint.

20 You are being given 30 days to submit an amended complaint that fixes the problems  
21 described above. If you submit an amended complaint, it needs to explain in simple terms what  
22 laws or legal rights of yours were violated, by whom and how, and how those violations impacted  
23 you. Without this information, the court cannot tell if you can state a claim against the  
24 defendants. If you do not submit an amended complaint by the deadline, the undersigned will  
25 recommend that the case be dismissed.

26 **VI. CONCLUSION**

27 Accordingly, IT IS HEREBY ORDERED that:

28 1. Plaintiff’s request to proceed in forma pauperis (ECF No. 2) is GRANTED;

1 2. Plaintiff shall have 30 days from the date of this order to file an amended complaint that  
2 names defendants who are amenable to suit, and which complies with the instructions  
3 given above. If plaintiff fails to timely comply with this order, the undersigned may  
4 recommend that this action be dismissed.

5 || DATED: October 5, 2022

Allison Claire  
ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE